

Message Text

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73

ACTION EUR-12

INFO OCT-01 EA-06 ISO-00 AID-05 CEA-01 CIAE-00 COME-00

EB-07 FRB-03 INR-07 NSAE-00 CIEP-01 SP-02 STR-01

TRSE-00 LAB-04 SIL-01 SAM-01 OMB-01 FEA-01 CEQ-01

COA-01 DODE-00 EPA-01 IO-10 L-02 NSF-01 NSC-05 PM-03

OES-03 SS-15 PA-01 USIA-06 PRS-01 /104 W

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R 211825Z FEB 75

FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC 8339

INFO AMEMBASSY ANKARA

AMEMBASSY ATHENS

AMEMBASSY BERN

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY HELSINKI

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AMEMBASSY LISBON

AMEMBASSY LONDON

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AMEMBASSY MADRID

AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY PARIS

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AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

AMEMBASSY VIENNA

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NOFORN

E.O. 11652: N/A

TAGS: SENV, EEC, OECD

SUBJECT: EC COMMISSION MEMORANDUM ON THE POLLUTER PAYS
PRINCIPLE (PPP)

REFS: A) STATE 33462

B) EC BRUSSELS 0260

C) STATE 1695

D) EC BRUSSELS 10099, 1974

1. SUMMARY: THE COMMISSION OFFICIALS RESPONSIBLE FOR THE EC TRANSITIONAL PERIOD GUIDELINES FOR THE POLLUTER PAYS PRINCIPLE (PPP) IS AWARE OF THEIR DIVERGENCE FROM THE OECD GUIDELINES. HE NEVERTHELESS SAW IT AS THE BEST POSSIBLE "POLITICAL" COMPROMISE TO PRESERVE BOTH THE EC ENVIRONMENT PROGRAM AND THE PPP IN LIGHT OF THE TYPES OF AID THAT MEMBER STATES WERE PREPARED TO OFFER. END SUMMARY.

2. IN RESPONSE TO REFTEL A, THE MISSION ON FEB. 19, DISCUSSED THE EC COMMISSION'S MEMORANDUM ON THE POLLUTER PAYS PRINCIPLE, (PPP) WITH DIETER HAMMER, THE EC COMMISSION DIVISION CHIEF IN THE ENVIRONMENT SERVICE RESPONSIBLE FOR THE POSITIONS CONTAINED IN THE MEMORANDUM, AND ZITO, THE OFFICIAL WHO REPRESENTS THE COMMISSION ON ENVIRONMENT MATTERS AT INTERNATIONAL MEETINGS. WE WENT OVER THE POINTS RAISED IN REFTEL A STRESSING THAT IT IS IMPORTANT TO HAVE FRANK AND CANDID DISCUSSIONS ON ISSUES OF MUTUAL CONCERN AND THAT WE BELIEVE THAT THE OECD MEMBER STATES SHOULD BE GUIDED BY THE OECD RECOMMENDATION. HAMMER SAID HE APPRECIATED THE IMPORTANCE OF THE ISSUE, CONSIDERED IT PERFECTLY NORMAL THAT WE EXPRESS OUR CONCERNS ABOUT THE MEMORANDUM AND RECOGNIZED THAT THE COMMISSION MEMORANDUM WILL CONTINUE TO POSE PROBLEMS FOR HIM BECAUSE OF CERTAIN MEMBER STATE OBJECTIONS TO IT.

3. IN RESPONSE TO THE POINTS RAISED IN REFTEL A PARAS 6 AND 7 HAMMER GAVE THE FOLLOWING EXPLANATION OF BOTH THE LEGAL AND POLITICAL CONSIDERATIONS BEARING ON THE COMMISSION'S MEMORANDUM. HE RECOGNIZED THE INCOMPATABILITY BETWEEN THE TRANSITIONAL PERIOD GUIDELINES AND THE OECD RECOMMENDATIONS BUT SAID THAT HE WAS FACED WITH A "POLITICAL" DECISION AND CHOSE WHAT HE BELIEVED WAS THE BEST COMPROMISE TO ACHIEVE BOTH ENVIRONMENT AND PPP OBJECTIVES.

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SITATIONAL PERIOD GUIDELINES AND THE OECD RECOMMENDATIONS BUT SAID THAT HE WAS FACED WITH A "POLITICAL" DECISION AND CHOSE WHAT HE BELIEVED WAS THE BEST COMPROMISE TO ACHIEVE BOTH ENVIRONMENT AND PPP OBJECTIVES.

4. REGARDING THE LEGAL BACKGROUND, HE SAID THE COMMISSION MEMORANDUM MUST BE SEEN IN THE CONTEXT OF ARTICLE 92 OF THE ROME TREATY (STATE AIDS) WHICH DISALLOWS STATE AIDS UNLESS

THEY ARE FOR REGIONAL POLICY (92(3)(A)) OR SECTORAL POLICIES (92(3)(C)). THE COMMISSION BELIEVED THAT CERTAIN MEMBER STATES WOULD BE OFFERING AID FOR ENVIRONMENTAL PURPOSES FOR ALL INDUSTRIES UNDER THE GUISE OF EITHER REGIONAL OR SECTORAL AIDS, BOTH OF WHICH ARE PERMISSABLE UNDER THE TREATY WITHOUT A TIME CONSTRAINT. TO FORCE THE MEMBER STATES TO DISCLOSE THEIR ENVIRONMENTAL AID SYSTEMS AS SUCH AND TO AVOID A LONG AND BITTER CONFRONTATION WITH CERTAIN MEMBER STATES, WHICH WOULD HAVE PRESENTED TREMENDOUS RISKS TO THE COMMISSION'S ENVIRONMENTAL PROGRAM AND PPP, HAMMER OPTED FOR THE TRANSITIONAL PERIOD SOLUTION. AN ADDITIONAL REASON GIVEN WAS THAT THE COMMISSION FOUND THAT THERE WAS A LARGE BACKLOG IN INVESTMENTS TO IMPROVE THE ENVIRONMENT AND DURING A LIMITED PERIOD OF TIME FELT IT WISE TO ENLARGE AID POSSIBILITIES.

5. THE SPECIFIC CASE THAT TRIGGERED THE TRANSITIONAL PERIOD SOLUTION INVOLVED FRANCE. THE COMMISSION DIRECTORATE GENERAL FOR COMPETITION REJECTED AS TOO HIGH A FRENCH AID SCHEME WHICH PROVIDED AID OF UP TO 30 PERCENT OF INVESTMENT FOR POLLUTION CONTROL IN THE SUGAR INDUSTRY. ALTHOUGH HAMMER WAS RELUCTANT TO GO INTO DETAIL, HE GAVE THE IMPRESSION THAT THE FRENCH WOULD HAVE GONE AHEAD AND FORCED THE COMMISSION TO TAKE THEM TO THE EUROPEAN COURT AND THUS POSE A POLITICALLY UNACCEPTABLE CONFRONTATION.

6. HAMMER DOES NOT SEE THE GUIDELINES UNDERCUTTING THE PPP PRINCIPLE. HE CLAIMED THAT THERE IS A CLEAR UNDERSTANDING ON THE PART OF THE MEMBER STATES THAT AT THE END OF THE TRANSITION PERIOD ENVIRONMENT AID MUST BE JUSTIFIED ON THE GROUNDS OF REGIONAL OR SECTORAL DIFFICULTIES, I.E., SELECTIVELY, AS ENVISIONED BY THE OECD GUIDELINES. HE SAID THE LEVEL OF AID FOR THE FIRST TWO YEARS WAS SET AS HIGH AS IT WAS BECAUSE OF THE BELGIAN WATER POLLUTION CONTROL AID SYSTEM, (THE BELGIANS LIMITED OFFICIAL USE

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ORIGINALLY WERE PREPARED TO OFFER AID AT 60 PERCENT OF INVESTMENT). THE NON-SELECTIVE ASPECT OF THE TRANSITIONAL AID WAS NECESSARY BECAUSE OF NATIONAL SYSTEMS, SUCH AS GERMANY'S ACCELERATED DEPRECIATION, WHICH ALTHOUGH LOW (12-15 PERCENT OF INVESTMENT), WERE APPLICABLE GENERALLY. HE ARGUED THAT THE COMMISSION GUIDELINES ARE NOT AN INVITATION FOR MEMBER STATES TO ADOPT EITHER GENERALIZED TRANSITIONAL AIDS OR A HIGH LEVEL OF AIDS. ON QUESTIONING, HE ADMITTED THAT THE ITALIANS ARE THINKING OF HIGH LEVELS OF AID BUT SAID MOST MEMBER STATES ARE UNLIKELY TO OFFER ANYTHING NEAR THE 14 PERCENT OF INVESTMENT SUBSIDY ALLOWED DURING THE FIRST TWO YEARS. HE NOTED THAT THE BRITISH AND DUTCH DO NOT WANT TO OFFER AID FOR ENVIRONMENTAL PURPOSES. THEY ARE CONCERNED ABOUT POSSIBLE TRADE AND INVESTMENT DISTORTIONS AND THE PRESSURES THAT MAY BE MADE ON THEM BY THEIR RESPECTIVE

INDUSTRIES TO MATCH OTHER MEMBER STATE SUBSIDIES WERE THEY
TO BE SUBSTANTIAL. HE SAID THAT THE COMMISSION WILL CONCERN
ITSELF WITH POSSIBLE DISTORTIONS.

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R 211825Z FEB 75

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7. REGARDING THE OTHER POINTS MADE IN REFTEL A, HAMMER
ANSWERED AS FOLLOWS:

A) PARA 8(B) - THE COMMISSION BELIEVES THAT DIFFERENT MEMBER
STATE APPROACHES TO ENVIRONMENTAL COSTS DISTORT TRADE WITH
THIRD COUNTRIES AS WELL AS WITHIN THE EC BUT THE FOCUS OF THE
MEMORANDUM WAS BY ITS NATURE, ON THE EC. B) PARA 8(C). THE
COMMISSION POSITION ON AID TO NEW PLANTS IS THAT ALTHOUGH THE
COMMISSION OPPOSES AID TO NEW PLANTS, THE COMMISSION SHOULD
BE ABLE TO CONSIDER THE POSSIBILITY IF OTHER COUNTRIES GIVE
SUCH AID. HAMMER STATED THAT THE OECD NOVEMBER RECOMMENDATION
DOES NOT ABSOLUTELY EXCLUDE AID TO NEW PLANTS. C) PARA 9
- HAMMER SAID THAT THE EC STRONGLY BELIEVES THAT EXCEPTIONS
TO THE PPP SHOULD NOT SERVE TO DISTORT TRADE WITH NATIONS
OUTSIDE, OR INSIDE, THE COMMUNITY. D) PARA 10 - REGARDING EX-
CEPTIONS SPEEDING UP ADHERENCE TO THE PPP, HAMMER SAID THAT THE
TRANSITIONAL PERIOD SYSTEM MAKES THE THE POLLUTER PAY 55 PER
CENT OF THE INVESTMENT FOR THE FIRST TWO YEARS AND INCRJASINGLY
MORE DURING THE NEXT FOUR. THE TRANSITIONAL SCHEME PUTS PPP
ON THE TABLE, MAKES IT CLEAR WHAT AIDS ARE FOR AND ELIMINATES
THE NEED TO GRANT AID TO ANY AND ALL INDUSTRIES UNDER A REGIONAL
OR SECTORAL GUISE. HAMMER ARGUED THAT THE TRANSITIONAL GUIDE-
LINES ARE CLEAR, WILL SOON DISAPPEAR, AND IF MEMBER STATES
VIOLATE THEM, THE COMMISSION, CAN TAKE THEM TO COURT. HE DID
NOT SEE AIDS UNDER THE TRANSITIONAL SYSTEM AS BEING DIFFICULT
TO DISLODGE. E) PARA 11 - HAMMER SAID HE WAS IN COMPLETE AGREE-
MENT THAT ENVIRONMENT AIDS, AFTER THE TRANSITIONAL PERIOD,
SHOULD BE GRANTED VERY SPARINGLY UNDER TERMS ENDORSED BY ALL
OF THE OECD MEMBER STATES AND SHOULD BE SELECTIVE. THE AIDS
FOR ENVIRONMENT ASSISTANCE FALLING UNDER REGIONAL AND SECTORAL
EXCEPTION WHICH MAY BE GRANTED AFTER THE TRANSITIONAL PERIOD
UNDER ARTICLES 92(A) AND (C) WILL BE CLOSELY CONTROLLED BY THE
COMMISSION IN LIGHT OF THE OECD RECOMMENDATION AS IT DEVELOPS.

8. COMMENT: AFTER THE MEETING, ZITO VOLUNTEERED THAT PPP
MIGHT BE AN APPROPRIATE SUBJECT FOR THE NEXT US-EC BILATERAL
ENVIRONMENT MEETING AND THAT BENGELSDORF (STATE/SCI/ENV)
MAY WISH TO DISCUSS IT WITH CARPENTIER WHEN THEY ARE TOGETHER
AT THE OECD IN EARLY MARCH. END COMMENT.GREENWALD
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Message Attributes

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